

# Local Government Employee-Management Relations Board E-Newsletter

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## Staff

Bruce K. Snyder, Commissioner

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Board Secretary

## Electronic Digest of Decisions - Updated

A few months ago we announced that we released an electronic version of an old product that was last updated in 2008 which provides summaries of all the cases decided by the agency since its inception in 1969. We also promised at that time to continue to improve that product. To this end we have now placed on our website the most recent version of the product. In this version you will find that about two-thirds of the case summaries now are hyperlinked to the actual orders, which also appear on our website. In the next couple months we will complete this process.

## SB 168 and the 25% Factor

With the release of the new edition of the Nevada Revised Statutes our office has received a few inquiries about where to find a provision that was included in SB 168, and which was signed into law in the last session. This provision restricts certain funds from collective bargaining. Please be advised that this statute is NOT contained within the agency's enabling statute, NRS Chapter 288. Rather, it may be found within the statute regulating the budgets of local governments. Below is the text:

NRS 354.6241(3) For any local government other than a school district, for the purposes of chapter 288 of NRS, a budgeted ending fund balance of not more than 25 percent of the total budgeted expenditures, less capital outlay, for a general fund: (a) Is not subject to negotiations with an employee organization; and (b) Must not be considered by a fact finder or arbitrator in determining the financial ability of the local government to pay compensation or monetary benefits.

The EMRB suggests that local governments and employee organizations consult their own legal counsel as to any implications of this statute.

## EMRB Strategic Plan

All state agencies are to have a strategic plan in place by June 30, 2017. The EMRB has begun the process of drafting its plan, which will contain a mission statement, vision statement, list of values, a philosophy statement, an assessment of the current condition of the agency, and a list of objectives with performance measures. Staff will present the tentative plan to the Board in November. We then plan on releasing the revised draft to you in December, so that we might either receive your comments in writing or at our annual open forum held each January.

## Inside This Issue

- 1 Electronic Digest of Decisions - Updated**
- 1 SB 168 and the 25% Factor**
- 1 EMRB Strategic Plan**
- 2 On the Horizon** – Learn about upcoming meetings
- 2 Status of Court Cases** – Read about cases on a petition for judicial review or appeal
- 2 Did You Know?**
- 3 In the Queue** – See the cases waiting to be heard
- 3 No Date Yet Set for Legislative Commission**

## On the Horizon

The next meeting of the Board will be in Las Vegas and will run from Tuesday, September 13<sup>th</sup> through Thursday, September 15<sup>th</sup>. The agenda for this meeting will be issued on September 6<sup>th</sup>. The Board is scheduled to hear two cases. The first is A1-046127, Mike Quick v. Las Vegas Metropolitan Police Department. This case involves an administrative transfer by LVMPD, which the Complainant contends was done in lieu of discipline. Sgt. Quick was transferred from the SWAT unit when he supported an officer who had been disciplined by LVMPD as a result of the standoff in Bunkerville. The department denies the allegations. This case is scheduled for September 13<sup>th</sup> and 14<sup>th</sup>.

The second case for September is 2015-011, SEIU, Local 1107 v. Clark County. This case is pursuant to a remand by Judge Bell in which she reversed the EMRB on an issue arising from the passage of SB 241 and which concerns the issue of paid union leave. Judge Bell's Decision and Order specifically stated that the "Court reverses the EMRB's decision on this issue and remands this portion of the case to the EMRB for further fact-finding and a determination of what amount of the union leave was bargained for under the 2012 agreement. This amount shall determine to what extent, if any, the County was able to preserve the status quo while also complying with SB 241." This case is scheduled for September 15<sup>th</sup>.

## Status of Court Cases

From time-to-time we like to inform you of cases in which a party has filed a petition for judicial review of the Board's decision. The EMRB currently has nine cases on a PJR or on appeal at the Nevada Supreme Court. Last month we reported on four cases. Here is the status of the remaining cases:

**Clark County Association of School Administrators and Professional-Technical Employees v. EMRB and Bramby Tollen:** This is a petition for judicial review from an EMRB decision in favor of the Clark County Association of School Administrators and Professional-Technical Employees (CCASAPE), but a denial of attorney's fees. CCASAPE is appealing that portion of the decision. Briefing will conclude in November.

**Timothy Frabbiele v. EMRB and City of North Las Vegas:** This is a petition for judicial review from an EMRB decision that dismissed his complaint on the grounds that the employee lacked standing. The EMRB had issued a previous ruling, based on an earlier complaint, in the employee's favor. The City of North Las Vegas filed a motion to dismiss, which was granted in part. Briefing will conclude in October.

**Clark County Deputy Marshals Association v. EMRB and Clark County:** The case is an appeal to the Nevada Supreme Court of a denial of a petition for judicial review, affirming the EMRB's decision that the employees in question are not local government employees but rather court employees and that, accordingly, they have no collective bargaining rights. Two settlement conferences were held and a tentative settlement was reached, which ultimately fell through. The briefing schedule has been suspended per court order as it appears that the notice of appeal may have been untimely filed.

**Education Support Employees Association v. EMRB and Teamsters, Local 14:** This is the Board's appeal to the Nevada Supreme Court from Judge Cory's decision to overturn the Board's order which declared the Teamsters the victors of the election as to the representative labor organization. The Board determined the statute only required a majority of the votes cast rather than a majority of the total number of employees in the bargaining unit. No briefing schedule has yet been set to-date. The opening brief is due in October.

## Did you know

that according to the Department of Labor website, Labor Day, the first Monday in September, constitutes a yearly national tribute to the contributions workers have made to the strength, prosperity, and well-being of our country? So, no matter whether you are in management or a rank-and-file employee, you are all American – and Nevada – workers and we at the EMRB salute you for all you do to make Nevada a great place to live!

## In the Queue...

Once initial pleadings, including pre-hearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. The Board has now scheduled cases through February 2017:

### September 2016

A1-046127, Mike Quick v. Las Vegas Metropolitan Police Department

2015-011, SEIU, Local 1107 v. Clark County (case on remand from District Court over paid union leave issues)

### October 2016

2015-017, Bonner & Washington v. City of North Las Vegas

### November 2017

2015-034, Las Vegas Peace Officers Association v. City of Las Vegas

2016-012, Nevada State Education Association v. Silver State Charter Schools (oral argument)

### December 2017

2016-010, Krumme & PMSA v. Las Vegas Metropolitan Police Department

There is currently one day open for an additional hearing to be added.

### January 2017

2015-026, Cesar Sedano & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

2016-004, Richard Marshall v. Nye County

### February 2017

2015-028, Bonvicin & Moore v. City of North Las Vegas

In addition to the above cases which have hearing dates there is one additional case yet waiting for a hearing:

2016-016, Brown et al. & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

## No Date Yet Set for Legislative Commission

The next meeting of the Legislative Commission has not yet been set. But when they do meet, two issues affecting the EMRB are expected to be on the agenda. The first is the recommendation of the Sunset Subcommittee to both keep the EMRB as an agency and to also expand the size of the Board from three members to five members. The second expected agenda item is on the approval or rejection of the amendments to the agency's regulations, previously adopted by the Board. We shall keep you informed as to when the meeting might take place in case you would like to attend the meeting.

### **"About the EMRB"**

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.